

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ALESSI & KOENIG, LLC,)
Plaintiff,) Case No.: 2:15-cv-01946-GMN-VCF
US)
)

ORDER

CHOY C. PALO, *et al.*,)
Defendants.)
_____)

BANK OF AMERICA, N.A., *et al.*,
Counter-Claimants,

)
COLLEGIUM FUND, LLC SERIES #24, *et*
al.,)
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Counter-Defendants.)

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COLLEGIUM FUND, LLC SERIES #24, et al.)

CHOY C. PALO, et al.,
Counter-Defendants.

Pending before the Court is the Motion to Remand (ECF No. 6) filed by Collegium Fund, LLC Series #24 (“Collegium”). Federal National Mortgage Association (“Fannie Mae”) filed a Response (ECF No. 13), and Collegium filed a Reply (ECF No. 16). However, because

1 the Court finds that the Supreme Court's decision in *Lightfoot v. Cendant Mortg. Corp.*, No.
 2 14-1055, 2016 WL 3496734 (U.S. June 28, 2016) is dispositive in determining whether
 3 jurisdiction exists in this matter, the case is **STAYED** pending the Supreme Court's decision in
 4 *Lightfoot*, and Collegium's Motion to Remand is **DENIED without prejudice**.

5 **I. BACKGROUND**

6 **A. Procedural History**

7 This state-law interpleader action arises out of a foreclosure sale of real estate located at
 8 5755 Ancient Agora Street, North Las Vegas, Nevada 89031 ("Property"), which yielded
 9 excess funds. (*See Pet. for Removal ¶ 4*, ECF No. 1). Maravilla Homeowners Association
 10 ("HOA") contracted with Plaintiff Alessi & Koenig, LLC ("A&K") to collect debts owed to
 11 HOA by Defendants Choy C. Palo and Reichelle Palo (collectively the "Palos") related to the
 12 Property. (Compl. ¶ 15, ECF No. 1-2). The collection action ultimately resulted in an HOA
 13 foreclosure of the Property on November 6, 2013. (*Id. ¶ 16*). After paying HOA its dues owed,
 14 and after retaining for itself the fees and costs to bring this action, A&K was left with
 15 \$8,342.88 (the "Funds") in which it claims no further interest. (*Id. ¶ 19*).

16 On March 28, 2014, Alessi & Koenig filed this interpleader action in Nevada state court
 17 against the Palos and Bank of America, N.A. ("BANA") seeking declaratory relief regarding
 18 the priority of claims to the Funds. (*See id.*). Shortly thereafter, the state district court granted
 19 BANA's motion to join the purchaser at the HOA foreclosure, Collegium Fund LLC #24
 20 ("Collegium"), as a necessary party. (Pet. in Removal ¶ 2, ECF No. 1). BANA answered
 21 A&K's Complaint and counterclaimed against Collegium for quiet title and declaratory relief
 22 that Collegium purchased the Property subject to the Deed of Trust encumbering the Property.
 23 (BANA's Ans. and Countrcls., ECF No. 1-4). Further, BANA assigned its interest in the Deed
 24 of Trust to Fannie Mae. (Fannie Mae's Ans. ¶ 13, ECF No. 4). Collegium answered BANA's
 25 counterclaims, added Fannie Mae as a counter-defendant, and brought its own counterclaims

1 against the Palos, BANA, and Fannie Mae for quiet title, declaratory relief, unjust enrichment,
 2 and injunctive relief. (Collegium's Ans. and Countercls., ECF No. 1-5).

3 On October 8, 2015, Fannie Mae filed a Petition for Removal (ECF No. 1) to remove the
 4 state court action to federal court pursuant to the Ninth Circuit's holding in *Lightfoot v.*
5 Cendant Mortg. Corp., 769 F.3d 681, 682 (9th Cir. 2014). *Lightfoot*, 769 F.3d at 682 ("The sue-
 6 and-be-sued clause in Fannie Mae's federal charter confers federal question jurisdiction over
 7 suits in which Fannie Mae is a party."). Collegium subsequently filed the instant Motion to
 8 Remand. (See Mot. to Remand, ECF No. 6).

9 **B. The Supreme Court's Pending *Lightfoot* Decision**

10 After Collegium filed its Motion, the Supreme Court granted certiorari in *Lightfoot v.*
11 Cendant Mortg. Corp., No. 14-1055, 2016 WL 3496734 (U.S. June 28, 2016). The question
 12 the Supreme Court will resolve in *Lightfoot* is whether the phrase "to sue and be sued, and to
 13 complain and to defend, in any court of competent jurisdiction, State or Federal" in Fannie
 14 Mae's charter confers original jurisdiction over every case brought by or against Fannie Mae to
 15 the federal courts. 12 U.S.C. § 1723a(a). A split panel of the Ninth Circuit answered the
 16 question in the affirmative. *Lightfoot v. Cendant Mortg. Corp.*, 769 F.3d 681, 682 (9th Cir.
 17 2014).

18 **II. LEGAL STANDARD**

19 "[T]he power to stay proceedings is incidental to the power inherent in every court to
 20 control the disposition of the causes of action on its docket with economy of time and effort for
 21 itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). "A trial
 22 court may, with propriety, find it is efficient for its own docket and the fairest course for the
 23 parties to enter a stay of an action before it, pending resolution of independent proceedings
 24 which bear upon the case." *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir.
 25 1979). In deciding whether to grant a stay, a court may weigh the following: (1) the possible

1 damage which may result from the granting of a stay; (2) the hardship or inequity which a party
 2 may suffer in being required to go forward; (3) the orderly course of justice measured in terms
 3 of the simplifying or complicating of issues, proof, and questions of law which could be
 4 expected to result from a stay. *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962).
 5 However, “[o]nly in rare circumstances will a litigant in one case be compelled to stand aside
 6 while a litigant in another settles the rule of law that will define the rights of both.” *Landis*, 299
 7 U.S. at 255. A district court’s decision to grant or deny a *Landis* stay is a matter of discretion.
 8 See *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir.
 9 2007).

10 III. **DISCUSSION**

11 The *Lightfoot* decision will directly impact whether, as a matter of law, the Court has
 12 jurisdiction over this case. Specifically, Fannie Mae argues “that [*Lightfoot*] controls the
 13 jurisdictional inquiry in this circuit.”¹ (Resp. 5:19–20, ECF No. 13). Further, Collegium
 14 “concedes that the Ninth Circuit *Lightfoot* decision grants [Fannie Mae] an opportunity to seek
 15 removal to federal court.” (Mot. for Remand 6:2–3, ECF No. 6). Under this circumstance, the
 16 *Landis* factors weigh strongly in favor of staying this action pending the *Lightfoot* decision.
 17 Indeed, the possible prejudice to the parties is minimal as the *Lightfoot* decision will likely be
 18 issued within the next year per the Supreme Court’s customary practice. Judicial resources also
 19 may be unnecessarily expended reviewing the adequacy of the pleadings and resolving
 20 discovery disputes in a case that the Court may not have subject matter jurisdiction to entertain.
 21 Because the *Lightfoot* decision is squarely on point, the orderly course of justice likewise

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23 ¹ Although Collegium argues in its Motion to Remand that diversity jurisdiction is absent in this case, (Mot. to
 24 Remand 14:3–15:16), Fannie Mae declined to respond to the diversity issue which it deemed “irrelevant,” (Resp.
 25 5:19 n.1, ECF No. 13). The Court, however, finds that diversity jurisdiction is doubtful in this case. See *Mesa
 Indus., Inc. v. Eaglebrook Products, Inc.*, 980 F. Supp. 323, 326 (D. Ariz. 1997) (“Moreover, the great weight of
 authority favors Plaintiff’s position that the amount of a counterclaim may not be considered in determining the
 amount in controversy.”). Because *Lightfoot* appears to provide the only path to jurisdiction in this Court, a stay
 pending resolution of that case is warranted.

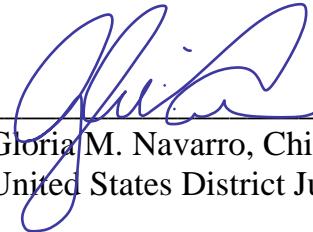
1 weighs in favor of a stay. Accordingly, the Court finds that staying this action until the
2 Supreme Court issues an opinion in *Lightfoot* would be efficient for the Court's own docket and
3 the fairest course for the parties. *See Leyva*, 593 F.2d at 863.

4 **IV. CONCLUSION**

5 **IT IS HEREBY ORDERED** that Collegium's Motion to Remand (ECF No. 6) is
6 **DENIED without prejudice** with permission to renew within thirty days of the Supreme
7 Court's decision in *Lightfoot*.

8 **IT IS FURTHER ORDERED** that this case is **STAYED** pending a decision of the
9 Supreme Court in *Lightfoot*. Beginning on October 25, 2016, the parties must submit a joint
10 status report updating the Court on the status of this case every ninety days.

11 **DATED** this 26 day of July, 2016.

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15 Gloria M. Navarro, Chief Judge
United States District Judge